IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2006

CORAM

THE HONOURABLE MRS. JUSTICE PRABHA SRIDEVAN

W.P.No.22984/2006 & M.P.No.1/2006

Bhannari Mariamman Women Self Help Group
Represented by its Co-ordinator
Mrs.Rukmani. .. Petitioner

Vs

1.The District Forest Officer,
Sathyamangalam Division,
Erode District.

2.The Member Secretary cum Forest Ranger
Kalidimbam Village Forest Council,
Bhavani Sagar Forest Range, Bhavani Sagar,
Erode District.

3.The President,
Ittarai, Timbam Post,
Bhavani Sagar Forest Circle,
Bhavani Sagar,
Erode District. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 and 2 to issue necessary permit in favour of the petitioner for cutting and carying forest grass both dry and fresh grass, amla and kadukkai.

For Petitioner : Mr.M.M.Sundresh
For Respondents: Mr.Titus Jesudoss
Spl. GP (Forests)

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ORDER

On the last hearing, the learned counsel for the petitioner had made his submissions and had also requested that an order may be passed similar to the order passed in W.P.No.27741/2005 which arose out of a similar issue. The petitioner is a Women Self Help Group comprising of Scheduled Tribe women who solely depend upon the minor forest products. The State Government in order to help the Scheduled

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Tribe women, created the Village Forest Council and gave the right to sell and control the minor forest products to such councils in G.O.Ms.No.79 Environment and Forest Department dated 29.4.2003. The lease was granted in favour of the petitioner to sell the minor forest products at the fair price fixed by the respondents. The petitioner sought for extension of the permit. Accordingly, the lease was extended by the 3rd respondent but the 2nd respondent has not permitted the petitioner to carry and transport the minor forest products and therefore, this writ petition has been filed.

2. In G.O.Ms.No.79 Environment and Forest Department dated 29.4.2003, the public auction was abolished and it was decided that the right to collect minor forest produce free of cost to the women Self Help Group and other Swarna Jayanthi Grama Sarojdhar Yojana at a reasonable price through the Forest Council. However, the Forest Councils were formed and the respective Forest Rangers were appointed as Member Secretaries to the above Councils. The minor forest products which the petitioner collect, include grass, amla, kadukkai etc. According to them, the payment fixed by the respondents has been duly paid by the petitioner and inspite the extension of the lease period in their favour, the 2nd respondent is not granting permit.

3. Mr. Titus Jesudoss, learned Special Government Pleader, has produced the relevant Government Orders and guidelines. In G.O.Ms.No.343 Environment and Forests (FR.VI) Department dated 8.8.97, the Principal Chief Conservator of Forests is directed to take action to constitute Village Forest Council in every programme village as per the approved Memorandum of Understanding. The Memorandum of Understanding is entered into between the Forest Department and the Village Forest Council. The objectives inter-alia are:

> "....."
>
> iii) To involve local people through Village Forest Council (VFC) in planning, planting, protection, harvesting, managing and benefit sharing in management unit with focus on degraded forests.
>
> ....
> vii) To ensure flow of employment generation and benefits to local people living in the management unit."

4. The responsibility and role of Forest Department as per this Government Order are:

> "i) To utilize the co-operation of Non-Governmental

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Organisation (NGOs) and the local community to the best advantage in involving an effective Joint Forest Management (JFM) technique in the management unit (programme village/villages)."

5. The 2nd respondent will prepare the Micro plan with the advice of the 3rd respondent Council and get the approval from the first respondent and the required funds will be released accordingly. It is the 1st respondent who has the power to exercise disciplinary control over the 2nd respondent and the 1st respondent will frequently inspect the work executed by the 2nd respondent. The responsibilities and role of the various Councils is also spelt out in this Government order.

6. The Government has also issued G.O.Ms.No.342 Environment and Forests (FR.VI) Department dated 8.8.97 laying down the guidelines for implementation of the Joint Forest Management in Tamil Nadu. It is seen from this that the 3rd respondent has been formed for fully involving the local people in the planning and execution of works, protection, harvesting and benefits sharing in the management unit. In fact, the Council can, for a such members, one male member and one female member from each household if they are willing. This shows that the purpose of the scheme is to involve fully the local citizens in various management. The role of the Member Secretary as spelt out in Clauses 4.6, 4.7 and 4.8 appears more to be focussed on the economic and financial aspect of the Council. There does not seem to be anything mentioned in these two Government orders delineating the power of the 2nd respondent. If the 2nd respondent has some reason to decline the issuance of permit, he shall give reasons for the same and pass an order otherwise it appears that being subordinate to the 1st respondent he cannot act contrary to the decisions of the 1st respondent or frustrate the benefit which the petitioner is entitled to by granting extension of lease by the 1st respondent by refusing to issue permits.

7. It is clear from the objectives of the implementation of the scheme that the Government intends the women of a deprived group of the local population to get the benefit by harvesting minor forest produce. This special provision have been made only to benefit the women of the Scheduled Tribe. This aspect of the matter shall also be borne in mind by the respondents. The scheme has as its goal the total participation of the local citizens so that the natural wealth of the forest is not depleted or destroyed in any manner. All that the women are allowed to harvest by the lease is dry grass, kadukkai etc. If the petitioner act contrary to the terms for which the lease is granted or if under the guise of obtaining permit in favour of the petitioner others are misusing the permit, it is always open to the 1st respondent to take action. But once, the 1st respondent has granted lease, the 2nd respondent, unless it is for a valid reason

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given, cannot deny permit to transfer and move the minor forest products that they have harvested.

8. In these circumstances, the writ petition is disposed of as follows:

> "The respondents 1 and 2 are directed to strictly implement the G.O.Ms.No.79, Environment Forest (Forest 14) Department dated 29.4.2003 and in case, in contravention of the said GO, any produces of the forest are sold or there is any proposal to sell the same, the same can be stopped forthwith. Respondents 1 and 2 shall also bear in mind the object and purpose for which these guidelines have been issued and the scheme has been framed. The 2nd respondent shall issue the permit to the petitioner so that they can derive the benefit of the lease granted by the 1st respondent to the petitioner, unless he can make out reasons for denying it"

No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ap

To

1.The District Forest Officer,
Sathyamangalam Division, Erode District.

2.The Member Secretary cum Forest Ranger
Bejalletti Village Forest Council,
Bhavani Sagar Forest Range, Bhavani Sagar,
Erode District.

3.The President,
Ittarai, Timbam Post,
Bhavani Sagar Forest Circle,
Bhavani Sagar, Erode District.

+1cc to Mr.M.M.Sundresh, Advocate Sr 35472
+1cc to Spl.Govt. Pleader Sr 35283

NA (CO)
km/23.8.

W.P.No.22984/2006

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